

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

JEFFERSON MORLEY,

Plaintiff,

v.

CENTRAL INTELLIGENCE AGENCY

Defendant.

Civil Case No. 03-2545(RJL)

MEMORANDUM ORDER

(January 9, 2013)

On September 18, 2012, defendant Central Intelligence Agency ("CIA") filed a Notice of Filing Supplemental Declarations ("Notice") [Dkt. # 128], asserting that the material it had withheld under a withdrawn Freedom of Information Act ("FOIA") exemption was properly withheld under other FOIA exemptions. Decl. of Michele L. Meeks, Information and Privacy Coordinator, Central Intelligence Agency ("Meeks Decl.") at 1 [Dkt. # 128-1]. As such, the defendant asked the Court to dismiss this case as moot. Notice at 1. Because the Court is persuaded that the relevant FOIA exemptions have been properly invoked, this case is hereby DISMISSED AS MOOT.

The facts of this case are detailed in the opinions of this Court and the Court of Appeals. *See generally Morley v. CIA*, 699 F. Supp. 2d 244 (D.D.C. 2010) ("*Morley I*"), *aff'd in part, rev'd in part, remanded by* 466 Fed. Appx. 1 (D.C. Cir. 2012); *Morley v. CIA*, 453 F. Supp. 2d 137 (D.D.C. 2006) ("*Morley I*"), *aff'd in part, rev'd in part*, 508 F.3d 1108 (D.C. Cir. 2007). In 2010, I held that the CIA properly invoked FOIA Exemption 2 in withholding in part or in full certain documents from Plaintiff's FOIA request. *Morley II* at 253-54. While this decision was

on appeal, the Supreme Court issued its decision in *Milner v. Department of the Navy*, which narrowed Exemption 2. 131 S. Ct. 1259, 1264-66 (2011). In response, the CIA withdrew its Exemption 2 assertions and provided Morley with the one document that it withheld under only Exemption 2. *Morley v. CIA*, 466 F. Appx. 1, 2 (D.C. Cir. 2012). For several other documents, the CIA had asserted Exemption 2 along with other exemptions. *Id.* at 1. Consequently, our Circuit remanded the matter back to this Court so that the CIA could file a supplemental declaration stating whether the other exemptions covered the information previously withheld under Exemption 2. *Id.* at 2.

On September 18, 2012, the CIA filed a supplemental declaration stating that Exemptions 1 and 3 cover all of the information originally withheld under Exemption 2. Meeks Decl. ¶¶ 9-13. The majority of the documents withheld under Exemption 2 contain CIA organizational and functional information protected from disclosure under the CIA Act of 1949, which is “exempted from disclosure by statute” in accordance with Exemption 3. Meeks Decl. ¶¶ 10-11 552 U.S.C. § 552(b)(3) (Exemption 3). Other withheld information is classified as secret or confidential, which is properly withheld under Exemption 1 as “authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy.” Meeks Decl. ¶ 1; 552 U.S.C. § 552(b)(1) (Exemption 1). Plaintiff has not submitted any opposition to this declaration.

Because the defendant has identified alternative FOIA exemptions that cover all of the information previously categorized under Exemption 2, it is hereby

ORDERED that the above-captioned case be **DISMISSED AS MOOT**.


 RICHARD J. LEON
 United States District Judge